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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/430,733	10/29/1999	NORIAKI ASAMOTO	JA9-98-146	7683

25259 7590 02/14/2003

IBM CORPORATION  
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EXAMINER

BUI, KIEU OANH T

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 02/14/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/430,733

**Applicant(s)**

ASAMOTO ET /

**Examiner**

KIEU-OANH T BUI

**Art Unit**

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --*

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Herz et al. (U.S. Patent No. 5,758,257/ or "Herz" hereinafter).

Regarding claims 1 and 4, Herz discloses a data receiving apparatus (Figs. 4-5 for a broadcast system & Fig. 9 for a receiving apparatus) and its corresponding method including reservation accepting means for accepting a reservation of one or more data broadcast programs which may be overlapped each other in time zone and in which same broadcasting data is transmitted in multiple times (in repetition), i.e., reservation is established based on customer profiles with customer's customized programs and times (col. 4/lines 18-31 & col. 28/lines 5-13) and a matrix is used to match customer preferences (col. 9/lines 30-52) as well as grouping means for grouping reserved broadcast programs into one or more groups which interfere each other with respect to a priority (virtual programs) and priority assigning means for assigning priority at least unique at a same time for each of the virtual programs (col. 26/lines 22-50 & col. 27/lines 47-59), and data receiving means for receiving one or more of broadcast data which transmitting in repetition according to the priority assigned to each of the data broadcast program (col. 28/lines 47-56 for repetitions of broadcast programs, and Figs. 9-10 for software and hardware embodiments of a set top terminal in receiving broadcast data program before displaying at the TV screen, see col. 45/line 9 to col. 47/line 17 for more details of the set top terminal).

As for claim 2, Herz discloses "in which said grouping means groups multiple data broadcast programs overlapping each other in a time zone as well as indirect overlapping, overlapping in a time zone into a same virtual program and/or in each of the virtual program based on priority assigning means, i.e., customer clustering is used for grouping customers in a time zone together and overlapping broadcast programs can be transmitted (col. 34/line 12 to col. 37/line 48 for details on customer grouping, and col. 27/line 47 to col. 28/line 56 for overlapping broadcast programs to each other including virtual programs on virtual channels).

As for claim 3, Herz further disclose the limitation of cancellation of a reservation of the reserved data broadcast program or reservation of a new data broadcast program and the grouping means removes the canceled data broadcast program from the virtual program or adds the newly reserved data broadcast program to regroup the virtual program (Fig. 2, and col. 25/lines 49 to col. 26/line 50 for a procedure to add or delete programs for virtual programs on virtual channels based on customer preferences for scheduling interested broadcast programs to viewers at any given time, i.e., overlapping time in programs).

As for claims 5-7, these claims for a recording medium recording a program for causing a computer to execute these earlier mentioned limitations, i.e., at the user set top terminal (as a recording medium), a record of video programs watched by the user is stored therein and under the use of the matrix program, which causes the computer program to execute the performance or selection based on that matrix agreement according to customer profiles (col. 6/line 56 to col. 7/line 35), are rejected for the reasons given in the scope of claims 1-4 as already discussed in details above.

Art Unit: 2611

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Metz et al (US Patent 5,768,539) disclose a technique of downloading application software through a broadcast system.

4. **Any response to this action should be mailed to:**  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9314, (for Technology Center 2600 only)

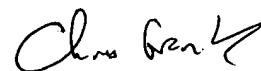
*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (703) 305-0095. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Krista Bui  
Art Unit 2611  
January 28, 2003

  
**CHRIS GRANT**  
**PRIMARY EXAMINER**